

REMARKS

Applicants respectfully request entry of the following amendments and remarks contained herein in response to the Non-Final Office Action mailed August 7, 2006. Applicants respectfully submit that the amendments and remarks contained herein place the instant application in condition for allowance.

Upon entry of the amendments in this response, claims 86, 90 – 92, 98, 102 – 103, 107, and 109 are amended, claims 1 – 85 and 104 – 106 are cancelled, and claims 86 – 103 and 107 – 109 are pending. Applicants reserve the right to pursue the subject matter of these cancelled claims in a continuing application, if Applicants so choose, and do not intend to dedicate the canceled subject matter to the public. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

I. Examiner Interview

Applicants also wish to express their sincere appreciation for the time that Examiner Ouellette spent with Applicants' Attorney, Jeffrey R. Kuester, during an in-person interview on November 27, 2006. During that interview, Examiner Ouellette explained his concerns under 35 U.S.C. §112, first paragraph, regarding the pending independent claims 53, 64, 75, 86, 92 and 98. Amendments made herein are designed to clarify the remaining claims and address other matters of form. While no agreement was reached during that interview, Applicants respectfully request careful consideration of this response with amendments.

II. Priority

In the Office Action, Applicants' claim to priority under 35 U.S.C. § 119 (e) to provisional applications 60/173,919 and 60/192,862 is acknowledged, but adequate support under 35 U.S.C. § 112 for claims 53, 64, 75, 86, 92 and 98 in their previous form is allegedly not provided by those provisional applications. At this point, Applicants do not address the validity of that conclusion; consequently, Applicants do not intend to express agreement or disagreement therewith. Furthermore, Applicants interpret the Office Action (and respectfully request any clarification to the contrary) to indicate that, despite acknowledging the claim for priority to the provisional applications, the alleged failure of the provisional applications to provide adequate

support under 35 U.S.C. § 112 resulted in a complete search of available art through the non-provisional effective filing date of the present application.

III. Rejections Under 35 U.S.C. §112

The Office Action indicates that claims 53, 64, 75, 86, 92 and 98 stand rejected under 35 U.S.C. §112, first paragraph, as based on a disclosure that is allegedly not enabling. While Applicants submit that the claims as previously pending were allowable as written, claims 53, 64, and 75 are among those cancelled above, and claims 86, 92 and 98 have been amended in the interest of advancing prosecution. Accordingly, Applicants submit that the claims as currently pending should not be rejected under 35 U.S.C. §112, first paragraph.

IV. Rejections Under 35 U.S.C. §103(a)

The Office Action indicates that all of the pending claims are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent Number 6,298,327 (“*Hunter*”) in view of U.S. Patent Number 6,061,660 (“*Eggleston*”). Applicants respectfully traverse these rejections on the grounds that *Hunter* in combination with *Eggleston* does not disclose, teach, or suggest all of the claimed elements.

First, Applicants note that all of the pending independent claims 86, 92 and 98 substantially include, “determining participation data for each of a plurality of innovator classes.” However, the Office Action is silent as to this element and does not provide a basis for the rejection. Consequently, any subsequent Office Action indicating the basis for this rejection should not be made Final. Second, while a related element in claims 107 – 109 is referenced in the Office Action, the basis for the rejection is that *Hunter* allegedly discloses this element in FIG. 17, yet *Hunter* does not have a FIG. 17. Accordingly, Applicants again submit that claims 86, 92, and 98, and claims depending from those claims, should be allowed.

In addition, claims 107 – 109 also require that the participation data for each of the plurality of innovator classes enable participation rates to be effectively tracked and managed. However, there is no suggestion in *Hunter* or *Eggleston* that participation data be of the type that participation rates can be tracked or managed, such as would be possible with totals in each of the innovator classes. Consequently, Applicants again submit that all of the pending claims should be allowed.

The Office Action also concludes that various claimed distinctions are found only in nonfunctional descriptive data and are not functionally involved in the claims. However, Applicants do not admit that any of the claimed differences are found only in nonfunctional descriptive data or are not functionally involved in the claims. For example, Applicants respectfully submit that claims 106 – 108 state clear functional relationships created by the claimed data elements.

CONCLUSION

In conclusion, Applicants respectfully request that all outstanding objections and rejections be withdrawn and that this application and presently pending claims be allowed to issue.

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known for at least the specific and particular reason that the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions.

If the Examiner has any questions or comments regarding Applicants' response, the Examiner is encouraged to telephone Applicants' undersigned counsel.

Respectfully submitted,

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